

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.) Case No. 1:16-CR-00064
)
)
MAHMOUD AMIN) Judge Anthony J. Trenga
MOHAMED ELHASSAN,)
Defendants.)

**DEFENDANT'S UNOPPOSED MOTION FOR LEAVE TO
FILE DEFENDANT'S UN-REDACTED POSITION PAPER &
COMMENTARY ON SENTENCING FACTORS, AND EXHIBITS
THERETO, UNDER SEAL PURSUANT TO LOCAL RULE 49(E)**

Defendant, **MAHMOUD AMIN MOHAMED ELHASSAN**, by and through his attorneys, **THOMAS ANTHONY DURKIN** and **STUART A. SEARS**, respectfully moves this Court for leave to file Defendant's Un-Redacted Position Paper & Commentary on Sentencing Factors, and exhibits thereto, under seal pursuant to Rule 49(E) of the Local Rules for the United States District Court for the Eastern District of Virginia, and asks for an Order sealing Defendant's Un-Redacted Position Paper & Commentary on Sentencing Factors.

In support of this Motion, Defendant, through counsel, shows to the Court the following:

1. The Presentence Investigation and counsel's independent sentencing investigation have revealed extremely sensitive matters, including psychiatric and medical issues, which counsel have redacted from Defendant's publically filed Position Paper and Commentary on Sentencing Factors. (Dkt. 50).

2. Accordingly, counsel wish to file an un-redacted copy with the Court under seal. Sealing of this document is necessary because the document contains sensitive and confidential

information, including psychiatric records and medical information, that should not be disclosed to the public at large, pursuant to Local Rule 49(e).

3. A trial court has "supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests." *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978)). Psychological and medical information falls within the type of material which an individual is ordinarily entitled to privacy protection. *United States v. Westinghouse Electric Corporation*, 638 F.2d 570, 577 (3d Cir. 1980).

4. After conferring with counsel for the government, undersigned counsel can represent that the government has no objection to the grant of this relief.

Respectfully submitted,

/s/ Stuart A. Sears
STUART A. SEARS,

/s/ Thomas Anthony Durkin
THOMAS ANTHONY DURKIN,
Attorneys for Defendant.

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CERTIFICATE OF SERVICE

Stuart A. Sears, Attorney at Law, hereby certifies that the foregoing Defendant's Unopposed Motion For Leave to File Defendant's Un-Redacted Position Paper & Commentary on Sentencing Factors, and Exhibits Thereto, Under Seal Pursuant to Local Rule 49(e), was served on February 17, 2017, in accordance with Fed.R.Crim.P.49, Fed.R.Civ.P.5, and the district court's electronic case filing policies and procedures.

/s/ Stuart A. Sears

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SEALING ORDER

This matter having come before the Court on the Defendant's Unopposed Motion for Leave to File Defendant's Un-Redacted Position Paper & Commentary on Sentencing Factors, and Exhibits thereto, Under Seal Pursuant to Local Criminal Rule 49(E) and for good cause shown, the Court finds:

1. The Defendant seeks to file a certain document under seal.
2. Sealing of this document is necessary because the document contains sensitive and confidential information, including psychiatric records and medical information, that should not be disclosed to the public at large.
3. The Court has considered procedures other than sealing, but none would suffice to protect the information contained within the document.
4. The defendant requests that the pertinent material be sealed in perpetuity.

It is therefore, **ORDERED** that the Defendant's Motion to Seal is granted and it is further **ORDERED** that the document filed under seal will remain under seal in perpetuity.

**Anthony J. Trenga
United States District Judge**

Date: _____
 Alexandria, Virginia